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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 CESAR CRUZ,

13 Defendant.

Case No. CR20-158RSL

ORDER DENYING
DEFENDANT'S SECOND
MOTION FOR REVIEW OF
DETENTION ORDER

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15 This matter comes before the Court on defendant's "Second Motion for Review of
16 Detention Order." Dkt. # 34. Defendant moves the Court for an order releasing him from
17 custody until sentencing, which had been scheduled for July 22, 2021, but has been rescheduled
18 for September 16, 2021. Dkt. # 38.

19 Defendant's detention is governed by 18 U.S.C. §§ 3143(a)(2) and 3145(c). Defendant is
20 subject to § 3143(a)(2) because his maximum term of imprisonment is ten years or more, as
21 prescribed in the Controlled Substances Act.¹ See 18 U.S.C. § 3143(a)(2) (applicable to
22 defendants found guilty of cases described in subparagraphs (A), (B), or (C) of 18 U.S.C.
23 § 3142(f)(1)). Per § 3143(a)(2), such a defendant must be detained pending sentencing unless:

24 (A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal
25 or new trial will be granted; or
26 (A)(ii) an attorney for the Government has recommended that no sentence of
imprisonment be imposed on the person; and

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28 ¹ Defendant pled guilty to two drug trafficking offenses that carry a maximum sentence of 40
years of imprisonment. Dkt. # 32 at 2.

1 (B) the judicial officer finds by clear and convincing evidence that the person is not likely
2 to flee or pose a danger to any other person or the community.

3 18 U.S.C. § 3143(a)(2). Because neither subsection (A)(i) nor (A)(ii) applies, § 3143(a)(2) does
4 not provide authority for defendant's release.

5 As for § 3145(c), this subsection provides that a person subject to detention pursuant to
6 § 3143(a)(2), who meets the conditions of release set forth in section § 3143(a)(1) "may be
7 ordered released, under appropriate conditions, by the judicial officer, if it is clearly shown that
8 there are exceptional reasons why such person's detention would not be appropriate." See
9 United States v. Garcia, 340 F.3d 1013, 1019–21 (9th Cir. 2003) (listing examples of
10 "exceptional reasons"). And a defendant cannot meet the conditions of release set forth in
11 § 3143(a)(1) absent the Court finding "by clear and convincing evidence that the person is not
12 likely to flee or pose a danger to the safety of any other person or the community if released
13 under section 3142(b) or (c)." 18 U.S.C. § 3143(a)(1). The Court agrees with the government
14 that defendant has not established by clear and convincing evidence that he is neither a flight
15 risk nor a danger to the community, nor has he established that exceptional reasons exist as to
16 why detention would be inappropriate. See Dkt. # 35 at 3–4.

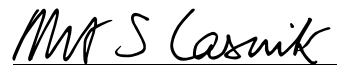
17 The fact that at least some of defendant's family members facilitated defendant's
18 involvement in criminal activities or otherwise "turned a blind eye" to them, Dkt. # 13 at 1, cuts
19 against defendant's request, as does defendant's decision to continue distributing drugs after two
20 previous contacts with law enforcement. Dkt. # 13 at 2. Additionally, defendant's desire to
21 "spend time with his family and prepare them for his absence," Dkt. # 34 at 3, is not an
22 exceptional reason warranting release. Many, if not most, defendants would like to be released
23 for such a purpose.²

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26 ² To the extent that defendant sought to argue that temporary release should be granted pursuant
27 to 18 U.S.C. § 3142(i), the Court concludes that release is not appropriate for the same reasons that
28 defendant's motion fails under § 3145(c). A temporary release under § 3142(i) must be justified by a
"compelling reason," and this relief should only be granted "sparingly." United States v. McKnight,
CR18-16 TSZ, 2020 WL 1872412, at *2 (W.D. Wash. Apr. 15, 2020). Although the Court does not
ORDER DENYING DEFENDANT'S SECOND MOTION
FOR REVIEW OF DETENTION ORDER - 2

1 For the foregoing reasons, the Court DENIES defendant's second motion for review of
2 his detention order (Dkt. # 34).

3 IT IS SO ORDERED.
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5 DATED this 7th day of July, 2021.
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9 Robert S. Lasnik
10 United States District Judge
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28 intend to minimize the hardship that defendant and his family face, defendant's family circumstances are
not so unusual as to be considered "compelling."